

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

An Independent Agency of the Executive Branch

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BOARD MEMBERS:

James Albert, Chair
Janet Carl, Vice Chair
Gerald Sullivan
Betsy Roe
John Walsh
Patricia Harper

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD MINUTES NOVEMBER 8, 2007 OPEN SESSION 12:00 NOON

HELD AT: Jessie Parker Building, 510 East 12th, Des Moines, Iowa

BOARD MEMBERS PRESENT: Jim Albert, Gerald Sullivan, Pat Harper, Betsy Roe and John Walsh, and Janet Carl by phone

STAFF PRESENT: W. Charles Smithson, Karen Hudson

1. CALL TO ORDER – The meeting was called to order by Chair Albert at 12:10 p.m.
2. APPROVAL OF MINUTES FROM SEPTEMBER 4, 2007 – It was moved by Roe and seconded by Harper to approve the June 28, 2007 minutes. The September 4, 2007 minutes were not included.
3. ADJOURNMENT TO EXECUTIVE SESSION – At 12:11 p.m. it was moved by Roe and seconded by Harper that in accordance with the provisions of Iowa Code section 21.5, the Board will move into executive session to discuss complaints, investigations, and personnel matters. Motion carried unanimously in roll call vote.

The meeting returned to Open Session at 1:14 p.m. and Janet Carl joined by phone.

4. ACTION FROM EXECUTIVE SESSION – It was moved by Roe and seconded by Walsh that the written record of executive session action be made a part of the open record.

The following executive session action was taken:

WINN PAC – It was moved by Roe and seconded by Walsh to dismiss the complaint as it is not properly filed under 68B.32B.1 and no investigation should be conducted as WINN PAC has registered and filed reports. Motion carried.

Mike Hobart – It was moved by Walsh and seconded by Harper to find the complaint legally sufficient and issue a letter of reprimand for failing to file true and accurate reports. Motion carried.

Lori Boyd/ISEA of Sioux City – It was moved by Walsh and seconded by Sullivan to direct an investigation. Motion carried. Consensus on other issues.

Misuse of Public Property Issues – Deferred from June 28 meeting – It was moved by Sullivan and seconded by Harper to send a letter to the agencies that violations do not rise to 6.8 but are in poor taste. Motion carried.

Deborah Thornton Paid For By – It was moved by Roe and seconded by Walsh that another correction notice be published as everything except the words “paid for by” appear in the add that was run previously. Motion carried. Staff should be advised that any correction notice must have the words “paid for by”.

Western Dubuque School District – It was moved by Sullivan and seconded by Harper to direct counsel to investigate whether or not there was a misuse of government funds for a political purpose when campaigning on school property; counsel be directed to investigate whether or not there was a misuse of government funds for a political purpose when campaigning on school property; direct investigation on allegation of illegal corporate contribution by the Booster Club; direct investigation to assure that move Committee for Fairness and Cost Savings is a separate entity from Citizens to Vote Yes for Fair Representation. Motion carried.

Dunlap Reporter Letters to the Editor – It was moved by Sullivan and seconded by Walsh to decline to investigate. Motion carried

State Employees on Iowa Liquidity Corporation Board – It was moved by Walsh and seconded by Roe to defer investigation pending action by employees. Motion carried.

Chamber of Commerce/Sioux City School Board – Moved by Roe and seconded by Walsh to direct an investigation of issues under board jurisdiction. Motion carried.

Decorah School Election – It was moved by Walsh and seconded by Harper to decline to investigate as it is not under board jurisdiction and there was no evidence that it was a campaign contribution. Motion carried.

JoEllen Jepson – It was moved by Sullivan and seconded by Harper to investigate the issue of misuse of governmental resources for political purpose. Motion carried.

Eric Rosenthal – It was moved by Roe and seconded by Sullivan to investigate the issue of use of campaign funds for personal benefit of a member of a committee. Motion carried

Jonathan Narcisse – It was moved by Sullivan and seconded by Walsh to decline to investigate as this is an issue previously dealt with, but encourage him to use one email only for campaign purposes to avoid dealing with this on an ongoing basis. Motion carried.

Southern Iowa Rural Water Association – It was moved by Roe and seconded by Harper to investigate if this entity is a governmental unit. Motion carried.

Tom Rice – It was moved by Harper and seconded by Sullivan to investigate the issue of misuse of public property. Motion carried.

Mills County Flyer – It was moved by Roe and seconded by Sullivan to decline to investigate because it is not express advocacy. Motion carried.

Entwistle & Cappucci – It was moved by Walsh and seconded by Sullivan to rescind the letter of reprimand. Motion carried.

Iowa Priorities PAC – It was moved by Walsh and seconded by Sullivan to rescind the letter of reprimand. Motion carried.

Iowa Fifth District Democratic Central Committee – It was moved by Walsh and seconded by Harper to select Albert as hearing officer. Roe will observe.

Iowa City Federation of Labor – Report was filed, so no hearing is needed.

Thomas Zaputil – It was moved by Sullivan and seconded by Harper close with finding of no probable cause to believe a violation occurred because he spent less than \$750. Motion carried.

Tom Caligiuri/Baratta's Café – It was moved by Walsh and seconded by Roe to close with finding of no probable cause to believe a violation occurred. Motion carried.

Jack Whitver – It was moved by Roe and seconded by Harper to direct an amended report be filed showing the in-kind contribution of robocalls and issue an educational letter to Polk County Republican Committee about the issue. Motion carried.

Decatur School Bond Flyer – It was moved by Sullivan and seconded by Walsh to close with finding of no probable cause since the correction has already been accomplished. Motion carried.

Polk City School Board Election Flyer – It was moved by Roe and seconded by Sullivan to keep the investigation open for the next two years and direct counsel to write a letter to newspapers concerning the fact this was raised and the board is looking into it. Motion carried.

Dennis Fiser – It was moved by Walsh and seconded by Harper that a correction notice be posted to correct a missing "paid for by" advertisement, and to dismiss with no finding of probable cause the following allegations: receipt of corporate contributions because none of the entities were corporations at the time of the contribution, a public endorsement that was not reported as a contribution because volunteer time is not considered a "contribution", contributions in the name of another because a search of his records indicated that he did not engage in this activity, and the content of his campaign material was either false or negative and Iowa does not have truth in political advertising. Motion carried. Sullivan abstained.

Ar We Va Bond Issue Committee – It was moved by Harper and seconded by Sullivan to take no action as staff is resolving through the board's administrative resolution process.

Mary Gilchrist – It was moved by Roe and seconded by Walsh to take no action as a matter of administrative discretion as the individual has left the state. Legal counsel is directed to send state agencies educational information concerning the application of the lobbying laws to activities by executive branch personnel. Motion carried.

Iowa Department of Public Health – Director is to communicate there is nothing prohibiting state agencies from lobbying.

5. RULE FILINGS

A. Retaining \$2.00 for costs – It was moved by Walsh and seconded by Harper to approve this proposed rule for Notice of Intended Action. Motion carried.

B. Mandatory electronic filing and late-filed reports – It was moved by Roe and seconded by Sullivan to approve this proposed rule for Notice of Intended Action. Motion carried.

C. Change lobbyist penalty schedule – It was moved by Harper and seconded by Sullivan to approve this proposed rule for Notice of Intended Action. Motion carried.

6. REQUEST FOR ADVISORY OPINION – these were addressed in September meeting.

A. Cindy Litwiller

B. Kendra Caruth

7. POLICY DECISIONS FOR THE BOARD TO MAKE

A. VSR for Purchase – Deferred from June 28 meeting – It was moved by Roe and seconded by Harper to notify state parties that VSR form does not need to be filed if noted as a purchase on disclosure reports, consider issuing an advisory opinion, and amend the language on the VSR and administrative rule. Language should include “fair market value” as the determination of reasonable purchase. Motion carried.

B. Meals as Public Service Recognition – Deferred from June 28 meeting – It was moved by Walsh and seconded by Harper to include in the board’s legislative package the recommendation of a meal exception when you are the recipient of an award. Motion carried.

C. Use of Campaign Funds for Memberships – It was moved by Roe and seconded by Harper to include in the board’s legislative package the recommendation that the legislature revisit the issue of what is a service organization and give some examples of difficulties and explain that it is unworkable. Motion carried.

a. Senator Johnson – It was moved by Roe and seconded by Walsh that for a dairy farmer, a cattle association must be considered a professional organization and campaign funds cannot be used for that membership; the membership should be repaid. In the case of the NRA, staff is directed not to pursue and determination of NRA status as a service organization is pending either legislative action or board action; legal counsel is directed to research the definition of a service organization for future forward. Motion carried.

D. Doug Gross Selling Computer/Mailing List – It was moved by Roe and seconded by Walsh to accept it as a reasonable transaction and no further action is needed. Motion carried.

8. HEARING REQUESTS TO APPEAL PENALTY WAIVER DENIALS – Consensus is to take these issues directly to the board chair instead of taking to the full board meeting in order to expedite hearings.

A. Grow for It Committee (Scott Fortune, Chair) – Sullivan was named as hearing officer.

B. Iowans for Buschkamp (Jim Buschkamp, Candidate) – Sullivan was named as hearing officer.

9. REQUESTS FOR WAIVER OF CIVIL PENALTIES – recommendations of dir walsh/harper carries

A. Statewide Committees (Rule 351 IAC 4.60)

1. Rainbow Equality PAC – It was moved by Walsh and seconded by Harper to reduce the civil penalty assessed for a late filed July 19, 2007, report to \$25. Motion carried.

2. Political Action – Iowa Dealers – It was moved by Walsh and seconded by Harper that the request for waiver of the civil penalty assessed for a late filed July 19, 2007, report be denied. Motion carried.

B. Out of State Committees

1. Local 18 PAC – It was moved by Walsh and seconded by Harper that the request for waiver of the civil penalty assessed for a late filed VSR report be denied. Motion carried.
2. International Brotherhood of Electrical Workers (IBEW) – It was moved by Walsh and seconded by Harper that the request for waiver of the civil penalty assessed for a late filed VSR report be denied. Motion carried.
3. United Transportation Union – It was moved by Walsh and seconded by Harper that the request for waiver of the civil penalty assessed for a late filed VSR report be denied. Motion carried.

C. Lobbyists/Clients (Rule 351 IAC 8.12)

1. Paul Hedquist/Employee and Family Resources – It was moved by Sullivan and seconded by Harper to waive the civil penalties assessed for late filed lobbyist and client reports. Motion carried.
2. Nancy S. Edelman/Friends of Community Vitality – It was moved by Sullivan and seconded by Harper that the request for waiver of a civil penalty assessed for late filed lobbyist client reports be denied. Motion carried.
3. Karla Jones-Weber/Greater Des Moines Community Foundation – It was moved by Sullivan and seconded by Harper that the request for waiver of a civil penalty assessed for a late filed lobbyist report be denied. Motion carried.
4. Allen McKinley – It was moved by Sullivan and seconded by Harper that the request for waiver of a civil penalty assessed for a late filed lobbyist report be denied. Motion carried.
5. Chuck Hurley/Mike Hartwig/Iowa Family Policy Center – It was moved by Sullivan and seconded by Harper that the request for waiver of civil penalties assessed for late filed lobbyist and client reports be denied. Motion carried.
6. Carla Marcellus/March of Dimes – It was moved by Sullivan and seconded by Harper that the request for waiver of civil penalties assessed for late filed lobbyist and client reports be denied. Motion carried.
7. Tom Jochum/State Public Policy Group - It was moved by Sullivan and seconded by Harper to waive the civil penalty assessed for a late filed lobbyist client report. Motion carried.
8. Phillip Delafield – It was moved by Walsh and seconded y Harper to reduce the civil penalty assessed for a late filed lobbyist report to \$25. Motion carried.
9. Jeff Berger – It was moved by Roe and seconded by Sullivan to waive the civil penalty assessed for a late filed lobbyist report. Motion carried.

10. VIOLATIONS

A. Attribution Statement Violations (Iowa Code section 68A.405) – Correction advertisement information was received from the following:

1. Ray Derby
2. Steve Hannen
3. Reike Plecas
4. Southern Iowa Rural Water Association
5. Soar with the MMC Eagles

6. Vote Yes for Iowa Central
7. Matt Walsh
8. Bill Elam – It was moved by Roe and seconded by Walsh that the correction advertisement does not meet requirements and should be put in a local newspaper of general circulation. Motion carried. Sullivan abstained.
9. Rob Grove
10. Thomas Dannon/ISL Yes for Kids Committee
11. Monica Vernon – It was moved by Roe and seconded by Walsh that the correction advertisement does not meet requirements and should be put in a local newspaper of general circulation. Motion carried. Sullivan abstained.

B. Late-Filed Statements of Organization (Iowa Code section 68A.201) – It was moved by Walsh and seconded by Roe that letters of admonishment be sent to the following for late filed Statements of Organization. Motion carried.

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|---|--------------------------------------|
| 1. Citizens for (Tom) Sooter | General Assembly Candidate |
| 2. (Julian) Garrett for Senate Committee | General Assembly Candidate |
| 3. Courthouse Restoration Committee | Local Ballot – Madison Co. |
| 4. Committee to Elect (William) Patterson | City Candidate – Webster Co. |
| 5. Committee to Elect (Sharon) Hickey | City Candidate – Webster Co. |
| 6. (Deborah) Thornton for School Board | School Board Candidate – Johnson Co. |

C. Late-Filed Notice of Dissolution (Iowa Code section 68A.402B) – It was moved by Roe and seconded by Walsh that letters of admonishment be sent to the following for a late filed Notice of Dissolution. Motion carried.

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|-----------------------------|------------------|
| 1. H. Kay Hedge for Senate | General Assembly |
| 2. Will Reger for Iowa HR99 | General Assembly |

11. GRADING STATE DISCLOSURES – There was general discussion of reasons for Iowa's poor grade. It was noted that staff is working on having candidate reports available in alpha order and that a searchable database will be feasible with the new filing system when mandatory filing goes into effect in 2010 and 2012. When these changes are made, it should improve the state's grade.

Harper noted that she received a call from someone who wanted to see the board take quicker action during an election year and what he wanted was some kind of information to the public about the fines that were assessed and when they were paid. It was determined that since the website already indicates if the civil penalty is paid, waived, reduced, etc., it was not necessary to provide the date on the website. It was suggested that if the date is needed, the individual call board staff.

After discussion, tentative meeting dates for 2008 are: January 24, May 22, September 4, and October 23.

12. ITEMS OF BOARD INTEREST NOT NEEDING ACTION

- A. Income Tax Checkoff Reports – Received for information. No action taken.
- B. Office of Auditor of State – Annual Audit – Received for information. No action taken.

The meeting adjourned at 2:17 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Karen Hudson".

Karen Hudson
Secretary